

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 22-80988-CIV-DIMITROULEAS

LISA SIMONE ROOFE,

Plaintiff,

v.

ROCKET MORTGAGE and MERSCORP,

Defendants.

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**ORDER ADOPTING AND APPROVING REPORT AND
RECOMMENDATION OF MAGISTRATE JUDGE**

THIS CAUSE is before the Court upon Defendants' Motion to Quash Service of Process, Set Aside Clerk's Default, Dismiss Action and for Attorney Fees and Costs [DE 21] and the Magistrate Judge's Report and Recommendation entered in the record on December 27, 2022 (the "Report") [DE 24]. The Court notes that no objections to the Report [DE 24] have been filed, and the time for filing such objections has passed. As no timely objections were filed, the Magistrate Judge's factual findings in the Report [DE 24] are hereby adopted and deemed incorporated into this opinion. *LoConte v. Dugger*, 847 F.2d 745, 749-50 (11th Cir. 1988), *cert. denied*, 488 U.S. 958 (1988); *RTC v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993).

Although no timely objections were filed, the Court has conducted a *de novo* review of the Report [DE 24] and record and is otherwise fully advised in the premises. The Court agrees with the Magistrate Judge's analysis and conclusions.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. The Report [DE 24] is **ADOPTED** and **APPROVED**; and

2. Defendants' Motion to Quash Service of Process, Set Aside Clerk's Default, Dismiss Action and for Attorney Fees and Costs [DE 21] is **GRANTED IN PART AND**

DENIED IN PART as follows:

- a. The Motion [DE 21] is **GRANTED** to the extent it seeks to **QUASH** service of process [DE 15] and **SET ASIDE** the Clerk's Default [DE 17].
- b. The Motion [DE 21] is **DENIED** to the extent it seeks dismissal of the Complaint.
- c. Plaintiff has until on or before **February 1, 2023** to effect proper service of process on Defendants and to file evidence of service in the record.¹ Failure to demonstrate that Plaintiff has effected proper service of process on Defendants by this date may result in immediate dismissal of this action without prejudice.
- d. The Motion [DE 21] is **DENIED** to the extent it seeks an award of attorneys' fees and costs.

3. The Clerk is **DIRECTED** to mail a copy of this Order to Plaintiff at the address below.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this

11th day of January, 2023.


WILLIAM P. DIMITROULEAS
United States District Judge

¹ The Court notes that Plaintiff filed in the record Notices of a Lawsuit and Request to Waive Service of a Summons, which she purportedly sent to Defendants on January 9, 2023. *See* [DE's 26, 27]. Requesting that a Defendant waive service of process does not constitute effecting proper service of process on that Defendant for purposes of this deadline. Furthermore, these documents should not have been filed by Plaintiff in the Court's docket unless and until they were executed by Defendants. *See* [DE's 26, 27] ("What happens next? If you returned the signed waiver, I will file it with the court."). These documents do not constitute compliance with the requirement that Plaintiff serve Defendants on or before February 1, 2023 or face dismissal without prejudice.

Copies furnished to:
Counsel of record

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